

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DESHEILA C. HOWLETT,

Plaintiff,

v.

Civil No. 17-11260

Hon. Terence G. Berg

Mag. R. Steven Whalen

CITY OF WARREN; LT. LAWRENCE  
GARDNER; SHAWN JOHNSON; and  
ANWAR KHAN;

Defendants.

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**PROPOSED JOINT SCHEDULING ORDER**

**PROPOSED JOINT SCHEDULING ORDER**

<b>EVENT</b>	<b>DEADLINE</b>
<b>Witness List Exchange – (Lay and Expert) – Plaintiff</b>	
<i><b>Plaintiff's Position:</b></i> Plaintiff has disclosed to Defendants both lay and expert witnesses in this matter. Every witness disclosed, including Ms. Davis, Ms. Khan and Mr. Saurez, has knowledge of relevant information proportional to Plaintiff's claims. If this Court orders that witness lists be filed, Plaintiff proposes that both parties file their witness lists by Friday, May 21, 2021.	Friday, May 21, 2021
<i><b>Defendants' Position:</b></i> The parties have not filed witness lists. The only exchanges had been through individuals identified in Initial Disclosures. As a starting point, Defendants believe the parties and the Court would benefit from an exchange of both lay and expert witnesses.  Plaintiff identified three witnesses: Alita Davis, Melissa Khan and Jose Suarez, who go beyond the scope of this litigation, which the Court has cautioned against.  Defendants propose May 14, 2021 for Plaintiff to provide her Witness List.	Friday, May 14, 2021
<b>Witness List Exchange – Lay and Expert) – Defendant</b>	
<i><b>Plaintiff's Position:</b></i> Plaintiff has disclosed her lay and expert witnesses through initial disclosures, supplemental disclosures and supplemental interrogatory responses. Defendants also have an obligation to disclose their witnesses and to supplement those disclosures and discovery responses. Plaintiff has not received any	Friday, May 21, 2021

supplemental disclosures or discovery responses from Defendants. Plaintiff conducted discovery based on Defendants' disclosures. If this court orders that witness lists be filed, Plaintiff proposes that both parties file their witness lists by Friday, May 21, 2021.	
<b><i>Defendants' Position:</i></b> Defendants propose that they would file their Witness List by May 28, 2021.	Friday, May 28, 2021
<b>Expert Disclosures/Reports (Proponent)</b>	
<b><i>Plaintiff's Position:</i></b> Plaintiff has no objection to this proposed timeframe.	Friday, June 18, 2021
<b><i>Defendants' Position:</i></b> Defendants have not been apprised of the final list of Plaintiff's Experts. Plaintiff has previously identified medical (psychiatrist and psychologist), vocational rehabilitation and damages experts. Further, they do not have the reports that are going to be used at trial. Defendants agree for Plaintiff to provide her list of trial experts and their final reports by June 18, 2021.	Friday, June 18, 2021
<b>IME of Plaintiff by Dr. Harvey Agar, MD</b>	
<b><i>Plaintiff's Position:</i></b> In the interest in avoiding further delay and Defendants' dilatory conduct, Plaintiff should not be required to submit to a second IME as she has been made available for same since January 6, 2021, but Defendants never scheduled it.	N/A
<b><i>Defendants' Position:</i></b> Defendants' psychiatric expert, Dr. Harvey Agar, MD, will need conduct an IME of Plaintiff before a rebuttal report can be completed. Additionally, Plaintiff lives in Georgia, which makes it more difficult to schedule her for an in person	Friday, July 2, 2021

examination. Defendants' propose that the IME be completed by July 2, 2021.	
<b>Expert Disclosures/Report (Rebuttal)</b>	
<b><i>Plaintiff's Position:</i></b> Plaintiff proposes Rebuttal reports be disclosed by Friday, July 2, 2021, which will give the parties thirty days from the disclosure of expert witness/reports.	Friday, July 2, 2021
<b><i>Defendants' Position:</i></b> Defendants will need to review and analyze Plaintiff's expert reports to determine what rebuttal experts are necessary and then to give those experts the opportunity to prepare written reports. Defendants' expert, Dr. Harvey Agar, MD, would also have to conduct an IME of Plaintiff. As a consequence, the July 30 <sup>th</sup> date is more realistic.	Friday, July 30, 2021
<b>Deposition of Plaintiff</b>	
<b><i>Plaintiff's Position:</i></b> Discovery cutoff on August 20, 2018. At the April 26, 2021 conference, this court limited discovery to experts. Plaintiff has supplemented her disclosures including expert reports detailing her condition and other discovery requests made by Defendants. Defendants' request to depose Plaintiff a second time is another attempt to continue its harassment of Plaintiff and delay this matter. This matter has lingered for four years due to the numerous baseless motions filed by Defendants and their interlocutory appeal which was described as frivolous by the Sixth Circuit Court of Appeals. Discovery should be limited to experts as previously indicated by this Court.	N/A

<p><b><i>Defendants' Position:</i></b> Plaintiff's deposition was taken on December 27, 2017. Defendants wish to depose Plaintiff, limited to events that have occurred over the last four years.</p> <p>Her deposition would take place following receipt of all the expert reports.</p> <p>Defendants propose that the deposition be completed by August 6, 2021.</p>	Friday, August 6, 2021
<b>Expert Discovery Cutoff</b>	
<p><b><i>Plaintiff's Position:</i></b> Plaintiff has no objection to Defendants' proposed date for expert discovery cutoff.</p>	Friday, August 27, 2021
<p><b><i>Defendants' Position:</i></b> Defendants propose that all expert discovery be completed by August 27, 2021.</p>	Friday, August 27, 2021
<b>Discovery Motions</b>	
<p><b><i>Plaintiff's Position:</i></b> The parties should not need more than five weeks after expert discovery cutoff to prepare and file discovery motions. Plaintiff proposes that the parties file discovery motions by Friday, September 17, 2021, which should provide ample time for the parties to file any discovery motions.</p>	Friday, September 17, 2021
<p><b><i>Defendants' position:</i></b> The resolution of discovery motions may impact Motions in Limine. As a consequence, a separate timetable is more realistic.</p> <p>This issue may be problematic in light of Plaintiff's proposed witnesses as identified earlier as being outside of the scope of this litigation.</p>	Monday, October 4, 2021

Defendants propose that discovery motions be filed by October 4, 2021.	
Responses to Discovery Motions <del>and Motions in</del> <u>Limine</u>	
<b><i>Plaintiff's Position:</i></b> Plaintiff proposes that responses to discovery motions be filed within 14 days after service of the motion, or by October 1, 2021	Friday, October 1, 2021
<b><i>Defendants' position:</i></b> Defendants propose that responses to discovery motions be filed within 21 days after the motion, or by October 25, 2021.	Friday, October 25, 2021
Reply Briefs supporting Discovery Motions <del>and</del> <u>Motions in Limine</u> , if any	
<b><i>Plaintiff's Position:</i></b> Plaintiff proposes that reply briefs be filed within 7 days after service of the response, or by Friday, October 8, 2021.	Friday, October 8, 2021
<b><i>Defendants' position:</i></b> Defendants propose reply briefs to discovery motions be filed fourteen days after the response, or by November 8, 2021.	Friday, November 8, 2021
Hearing date Discovery Motions	TBD by the Court
<b>Motions in Limine</b>	
<b><i>Plaintiff's position:</i></b> Plaintiff proposes that motions in limine be filed by Monday, November 8, 2021	Monday, November 8, 2021

<b><i>Defendants' Position:</i></b> Defendants propose that the parties file Motions in Limine by December 1, 2021. The reason for this date is because the discovery motions should be decided before the Motions in Limine are filed.	Wednesday, December 1, 2021
Responses to <del>Discovery Motions and</del> Motions in Limine	
<b><i>Plaintiff's position:</i></b> Plaintiff proposes that responses to discovery motions be filed within 14 days after service of the motion, or by Monday, November 22, 2021	Monday, November 22, 2021
<b><i>Defendants' Position:</i></b> Defendants propose that responses to Motions in Limine be filed by December 22, 2021.	Wednesday, December 22, 2021
Reply Briefs supporting <del>Discovery Motions and</del> Motions in Limine, if any	
<b><i>Plaintiff's position:</i></b> Plaintiff proposes that reply briefs be filed within seven days after service of the response, or by November 29, 2021.	November 29, 2021
<b><i>Defendants' Position:</i></b> Defendants propose that reply briefs to Motions in Limine be filed by January 6, 2022.	Wednesday, January 5, 2022
<b>Hearing date Motions in Limine</b>	TBD by the Court
<b>Final Settlement Conference</b>	
<b><i>Plaintiff's position:</i></b> Plaintiff has no objection to this timeframe.	TBD by the Court

<b><i>Defendants' position:</i></b> Defendants propose that the Court determine the Final Settlement Conference date, but would recommend that it be held at least two weeks after the hearing date on motions in limine.	TBD by the Court
Final Pretrial Order	TBD by the Court
Final Pretrial Conference	TBD by the Court
Trial Date – Jury	TBD by the Court
<b>Estimated Length of Trial</b>	
<b><i>Plaintiff's position:</i></b> Plaintiff does not know the basis of Defendants' contention that they need five full days for their proofs. Plaintiff believes that a reasonable estimated length of trial is 6-8 days.	6-8 Days



<b><i>Defendants' position:</i></b> Defendants do not know what is the basis for Plaintiff's estimate. Defendants would estimate that their portion of the proofs would be five full days. This estimate could be reduced, perhaps significantly, depending on the rulings on Motions in Limine, such as the one dealing with back-up runs.	5 days for Defendants' proofs
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U.S. DISTRICT COURT JUDGE

PPROVED AS TO FORM  
AND CONTENT:

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/s/ Ronald Acho  
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